

REMARKS

Claims 1-22 remain in connection with the present application.

ELECTION/RESTRICTION

In the Examiner's Office Action, the Examiner requests Applicants to elect one of the following inventions from the groups including;

- I. Claims 1-13 and 22, drawn to a composition for porous films, classified in class 528, subclass 373;
- II. Claims 14-16, drawn to a method of making porous films, classified in class 521, subclass 63; and
- III. Claims 17-21, drawn to a method of making a pattern from a porous film, classified in class 521, subclass 50.5.

The Examiner alleges that Group I and Groups II and III are related as product and process of use.

By this reply, Applicants elect Group I, including claims 1-13 and 22, and including linking claims 20-21, with traverse.

NO SERIOUS BURDEN ON EXAMINER

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, 806.04, 808.01) or distinct as claimed (see MPEP § 802.01, 806.05-806.05(i)); and

(B) There must be a serious burden on the Examiner if restriction is required (see MPEP § 803.02, 806.04(a)-806.04(i), 808.01(a) and 808.02).

Applicants submit that the search required for Groups I, II and III would not place an undue or serious burden on the Examiner. Additionally, the number of claims is not excessive and there are features common to each of the independent claims which may be found in a single search.

Further, if the search and examination of an entire application can be made without serious burden, as is the case here, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. See MPEP § 803. Accordingly, for this additional reason, Applicants kindly request the Examiner to withdraw the Restriction Requirement and search each of claims 1-22.

LINKING CLAIMS

By this reply, Applicants submit that the application includes linking claims 20-21 and should be included with the elected invention. Linking claim 20 links independent claims 1 and 14, and linking claim 21 links independent claims 1 and 17. The Examiner is kindly reminded that the linking claims must be examined with the invention elected, and should any linking claims be allowed, the Restriction Requirement must be withdrawn.

Any claim(s) directed to the non-elected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and should be fully examined for patentability. Where such withdrawn claims have been cancelled by Applicant pursuant to the Restriction Requirement, upon the allowance

of the linking claim(s) the Examiner must notify Applicant that any cancelled, non-elected claim(s) which depends from or includes all the limitations of the allowable linking claims may be reinstated by submitting the claim(s) in an Amendment. Upon entry of the Amendment, the amended claims(s) will be fully examined for patentability. See MPEP § 809.

RIGHT TO PETITION/DIVISIONAL FILINGS

Applicants reserve the right of petition under 37 CFR 1.144 should the Examiner make the Restriction Requirement final. Applicants also reserve the right to file a divisional application for the non-elected claims at a later stage, depending on the results of examination of the elected claims.

CONCLUSION

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

In the event that any matters remain at issue in the application, the Examiner is invited to contact the undersigned in the Northern Virginia area, for the purpose of a telephonic interview.

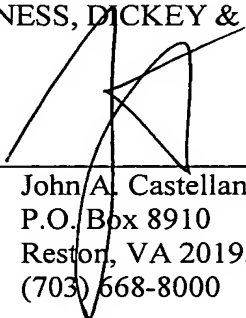
U.S. Application No. 10/808,374
Atty. Docket No. 6661-000041/US

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

By



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